

Appl. No. 10/656,488
Atty. Docket No. AA602M
Amdt. dated 5/10/2005
Reply to Office Action of 2/10/2005
Customer No. 27752

REMARKS

Claim Status

Claims 1-17 are pending in the present application. No additional claims fee is believed to be due.

Rejection Under 35 USC §112, Second Paragraph

The Office Action states Claims 11-12 are rejected under 35 USC §112, 2nd paragraph because it is unclear what is intended by the requirement that the "thermoplastic fibers include from about 10% to 30% of the thermoplastic fibers."

Applicants submit that the rejection is improper based on the Preliminary Amendment filed September 5, 2003, in which Claims 11 and 12 are already amended to overcome the rejection.

Applicants respectfully submit that the rejection should be withdrawn.

Rejection Under 35 USC §103(a) Over Keuhn, J. et al. in view of Molnar et al.

Claims 1-3 and 6-17 have been rejected under 35 USC §103(a) as being unpatentable over Keuhn, J. et al. (6,558,363) in view of Molnar et al. (5,143,680). This rejection is traversed because the cited references do not establish a *prima facie* case of obviousness. Specifically, there is no suggestion or motivation to one skilled in the art to modify Keuhn to have the surfactant of Molnar, as suggested by the Examiner. Therefore, the claimed invention is unobvious and that the rejection should be withdrawn.

Claims 1-3 and 6-15

Keuhn is silent with respect to a specific surfactant composition. The Office Action states that skilled person, looking to Molnar, would be motivated to use "phosphate esters" as disclosed in Molnar. The Applicants respectfully traverse this rejection for the following reasons.

Even though Molnar discloses "phosphate esters" in a list of surfactants, there is nothing to lead the skilled person to modify Keuhn with the phosphate esters. Molnar starts out by saying that the list of surfactants is "believed to be suitable." That is, Molnar is not sure such surfactants would even work. Therefore the skilled person may find Molnar's musings interesting, but not suggestive of actually modifying the surfactants of

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Keuhn. Furthermore, "phosphate esters" is one of a list of surfactants "believed to be" suitable, and it is not even the first named in the list. Therefore, the skilled person wishing to modify Keuhn would not only have to be convinced to combine an ingredient of unknown efficacy, the skilled person would have to choose a *specific* ingredient of unknown efficacy.

Applicants respectfully submit that the claimed invention is only considered obvious in hindsight, after the proper combination of ingredients has been discovered. There is no indication that Molnar recognized the value of phosphate esters as a surfactant, and it is only after the instant invention that such value is realized.

Accordingly, the Applicants respectfully submit that the 35 USC §103(a) rejection of Claims 1 and its dependent claims (Claims 2-15) over Keuhn, J. et al. (6,558,363) in view of Molnar et al. (5,143,680) be withdrawn.

Claims 16-17

With respect to Claim 16, the Office Action provides no basis for finding all the claim limitations in either of Keuhn et al. or Molnar et al. Specifically, Keuhn does not disclose a density under pressure as claimed (which is not simply a "workable density range" as alleged by the Examiner). Further, Keuhn provides no motivation for combining an anionic surfactant with the claimed absorbent gelling materials and the claimed fibers in the claimed density under pressure range. Simply finding all the pieces in the prior art is not sufficient for finding a motivation to combine. Only in hindsight can it be said that the instant invention is obvious. The cited reference simply provide no nexus for the claimed combination.

Therefore, the Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness with respect to Claim 16. Accordingly, the Applicants respectfully submit that the 35 USC §103(a) rejection of Claim 16 and its dependent Claim 17 over Keuhn, J. et al. (6,558,363) in view of Molnar et al. (5,143,680) be withdrawn.

Rejection Under 35 USC §103(a) Over Keuhn, J. et al. in view of Mor et al.

Claims 1-5 are rejected have been rejected under 35 USC §103(a) as being unpatentable over Keuhn, J. et al. (6,558,363) in view of Mor et al. (5,969,026). This rejection is traversed because the cited references do not establish a *prima facie* case of obviousness. Specifically, there is no suggestion or motivation to one skilled in the art to

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modify Keuhn to have the surfactant of Mor, as suggested by the Examiner. Therefore, the claimed invention is unobvious and that the rejection should be withdrawn.

Keuhn is silent with respect to a specific surfactant composition. The Office Action states that skilled person looking at Mor would be motivated to use "prior art compositions" as disclosed in Molnar. The Applicants respectfully traverse this rejection for the following reasons.

Even though Mor discloses "phosphates" and "sulfates" in a list of surfactants, there is nothing to lead the skilled person to modify Keuhn with the claimed phosphate esters or sulfate esters. There is nothing in the disclosure of Mor et al. that would suggest to the skilled person that "phosphates" or "sulfates" have any particular benefit. That is, there is no motivation to the skilled person to actually modify the surfactants of Keuhn based on Mor et al.'s disclosure. Furthermore, as before, not only would the skilled person have to be motivated to use one of the list of surfactants in Mor et al., he or she would have to be convinced to choose a *specific* ingredient for combination.

Applicants respectfully submit that the claimed invention is only considered obvious in hindsight, after the proper combination of ingredients has been discovered. There is no indication that Mor et al. recognized the value of phosphate esters as a surfactant, and it is only after the instant invention that such value is realized.

Accordingly, the Applicants respectfully submit that the 35 USC §103(a) rejection of Claims 1-5 over Keuhn, J. et al. (6,558,363) in view of Mor et al. (5,969,026) be withdrawn.

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Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections of Claims 1-17. Early and favorable action in the case is respectfully requested.

Respectfully submitted,

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By


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Date: May 10, 2005
Customer No. 27752
(Amendment-Response to Office Action.doc)